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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,170	03/24/2000	Yoram Levanon	1268-094	2252

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EXAMINER

RETTA, YEHDEGA

ART UNIT PAPER NUMBER

3622

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/534,170

Applicant(s)

LEVANON ET AL. 

Examiner

Yehdega Retta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to amendment filed July 28, 2004. Claims 1, 4, 8 and 22 have been amended. New claims 23-28 have been added.

Response to Arguments

Applicant's amendment overcome the rejection of 35 U.S.C. 101 and 112. Applicant's arguments filed July 28, 2004 have been fully considered but they are not persuasive.

Applicant argues that the prior art U and V reference does not teach the three personality orientations. Applicant states one difference between the present invention and the prior art is that the reference is based on the individual's cognitive classification of himself instead of the immediate emotional response of the individual. The claim does not specify the type of emotional information obtained from a potential consumer and the specification is not clear on what type of information is collected or what type of question are provided that leads to the classification of the consumer's personality. Applicant's specification discloses classifying consumer's personality into the three types based to the response to a questionnaire or through checking which Internet sites an individual frequents, spending patterns, etc. The prior art teaches based upon answers to a survey consumer's classified into different types of consumers. The claim recites collecting emotional information obtained from a potential consumer based on an immediate individual emotional response of the consumer. Applicant also argues that the prior art's classification of consumer's personality is different than applicant's classification. Applicant's classification or identification of consumer using such terms or labels as "survival" or "relaxation" or "growth" is not patentably different from the prior art as long as the consumers

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are classified as particular groups based on their likes or dislikes or preferences. Applicant also claims that the inventor has shown using empiric data that this classification results in superior results (as evident by sales) and claims that case studies been performed according to the above-described method showing the marketing strategies to potential consumers, using the specific personality types. Examiner requests that the inventor provides such information that shows providing questionnaire that specifically identifies consumer as one of the three types of personality and by providing advertisement that fits their personality provides a better result.

Requirement for Information Under 37 C.F.R. §1.105

1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

2. The information is required to identify products and/or services embodying the disclosed subject matter of a system and method for classification of the population according to three emotional orientation and providing tailored marketing. Applicant claims that the inventor has shown using empiric data that this classification results in superior results (as evident by sales) and claims that case studies been performed according to the above-described method involving showing the marketing strategies to potential consumers. Using the specific personality types, applicant claims resulting sales were 250% higher than the sales achieved using classical marketing strategies. Since applicant main invention is identifying or classifying individuals as one of the three type of emotional orientation or personality, The Examiner requests that the

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inventor provides such information that shows identifying consumer as one of the three types of personality and providing advertisement that fits their personality provides better result.

In response to this requirement please provide any known publications, research paper, prove of sales and press releases that are related to the method or systems described by applicant.

3. The fee and certification requirements of 37 C.F.R. § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. § 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the fee and certification requirements of 37 C.F.R. § 1.97.

4. In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure.

5. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

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6. This requirement is subject to the provisions of 37 C.F.R. §§ 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham M. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-13 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Refuah et al. (WO 99/39281) in view of either reference U or reference V, cited in this action. Refuah is considered to disclose the claimed method comprising:

(a) collecting emotional orientation information obtained from a potential consumer based on an immediate individual emotional response of the consumer according to emotional orientations (page 4 lines 21-22 wherein the disclosed site obtaining user persona and/or mood is

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considered patentably equivalent the claimed consumer emotional information collection because both gather information relating to a persona, mood, and/or emotional state);

(b) storing the emotional orientation information of the consumer in a personal character profile record in a database, wherein the personal character profile record includes a value indicative of the emotional orientation of the consumer (page 4 lines 28-29 wherein the disclosed computer user personality storage is considered to anticipate the claimed consumer emotional orientation storage because personality determines emotional orientation);

(c) determining, based on the stored emotional orientation information in the personal character profile record, a predominant tendency of the consumer toward one individual emotional orientation (page 6 lines 27-34 wherein the disclosed mood update implicitly teaches the claimed consumer predominant emotional orientation determination because the updating disclosure implies a comparison between a stored value and current value and because a mood defines an emotional orientation of a user);

(d) sorting the character profile record in the database into clusters, wherein each cluster corresponds to a subset of character profile records determined to have a predominant tendency toward one of the individual emotional orientations (page 7 line 31 through page 8 line 10 wherein the disclosed parameter organization is considered to expressly anticipate the claimed cluster character profile sorting because a persona or character profile are both organized or sorted by predominant tendencies, such as the disclosed baseball interest or garish color scheme);

(e) determining, based on the predominant tendency toward the one of the individual emotional orientations of the cluster of the character profile record of the potential consumer, an appropriate marketing campaign directed to the specific cluster including the personal character

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profile record of the potential consumer having a particular emotional orientation (page 9 lines 8-12 wherein the disclosed personal tailored advertisement is considered to be the same as the claimed appropriate marketing campaign determination because both target a promotion or incentive towards a consumer user based on mood, persona, and/or emotional orientation); and

(f) displaying the determined marketing campaign to the potential consumer or outputting a determined matched other user to a user (page 15 line 5 wherein the disclosed interactor advertisement presentation is considered an identical function, method, and purpose as the claimed consumer marketing campaign display or user outputting because both compare consumer emotional or mood information with promotional incentive information for displaying, outputting, or presenting marketing or advertisement information). Refuah is considered to also disclose the claimed questionnaire (page 29 line 21), interactive medium including the Internet (page 6 line 16) or telephone (page 6 line 1), unique features (page 7 line 30), degree of cluster combination (page 7 line 34), and consumer stimulus response (page 4 line 13).

Refuah is considered to disclose the claimed invention except of the claimed value of one of a survival type, growth type, relaxation type, and a combination thereof in the bolded text highlight of each of those references. In reference U, the disclosed fun and excitement category is considered to directly correspond to the claimed growth type, the disclosed relaxation and stress removal category is considered to directly correspond to the claimed relaxation type, and the disclosed trust and safety category is considered to directly correspond to the claimed survival type. In reference V, the disclosed fun and excitement emotional shopper is considered to directly correspond to the claimed growth type, the disclosed stress reduction emotional shopper is considered to directly correspond to the claimed relaxation type, and the disclosed


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family welfare, trust and safety emotional shopper is considered to directly correspond to the claimed survival type. It would have been obvious to one skilled in the art to combine the teachings of Refuah with either reference U or reference V, for the purpose of distinguishing categories, clusters, or emotional shopper designations for targeted advertising.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703) 305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yehdega Retta
Primary Examiner
Art Unit 3622

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